

# **EXHIBIT A**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN**

**FORD MOTOR COMPANY**, a Delaware corporation, and **FORD GLOBAL TECHNOLOGIES, LLC**, a Delaware Limited Liability Company,

Plaintiffs/Counter-Defendants,

V.

**INTERMOTIVE, INC.**, a California corporation, and **GREGORY E. SCHAFER**, an individual,

## Defendants/Counter-Plaintiffs.

Civil Action No.: 17-cv-11584  
Judge Terrence G. Berg  
Magistrate Judge Anthony P. Patti

**DECLARATION OF MARK A. ROBINSON IN SUPPORT OF  
INTERMOTIVE'S POST TRIAL MOTIONS**

1. I, Mark A. Robinson, do declare under penalty of perjury under the laws of the United States that the following is true and correct according to my understanding:

2. I am currently the Managing Partner of Bright Works Engineering Economics, PLLC (“Bright Works”) and have been retained by Howard & Howard to serve as an economic damages expert in this case.

3. During the time of my involvement in this case, I have prepared several reports including a recently issued report titled Pretrial Update Expert Report on October 29, 2023.

4. Ford produced financial information regarding Ford's sales of the UIM device and sales of Vehicles that included a UIM device from a few different Ford information systems.

5. For sales originating within North America, Ford produced information from a Ford system called the North American Vehicle Information System ("NAVIS").<sup>1</sup> The NAVIS data that has been provided only included Units and Revenue for the Vehicles without any information regarding the UIM module revenue.

6. On June 17, 2020 the Court ordered Ford to produce detailed financial information regarding the invoices for the vehicles that included the UIM device. Ford provided the detailed invoice information on September 28, 2020 ("NA Invoice Data").<sup>2</sup>

7. My previous reports relied upon the NA Invoice Data regarding Unit and Revenue information for the UIM devices and the Vehicles that included a

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<sup>1</sup> It is my understanding that Ford used information from the NAVIS system in order to provide Answers to InterMotive's Interrogatories 10 through 13 which had requested the sales of Ford's Upfitter Interface Module in terms of units and dollar amounts as well as the units and dollar amounts associated with the sales of vehicles that Ford sold that included Ford's Upfitter Interface Module.

<sup>2</sup> Refer to Opinion and Order Deeming Resolved in Part, Granting in Part & Denying in Part InterMotive's Motion for Sanctions (ECF No. 106, PageID.3064-5). The specific files that Ford produced comprised the NA Invoice Data that is described in the Robinson Report (May 17, 2021), paras. 84-86.

UIM device that Ford sold in North America (including the Fusion Police City HEV (CD391)).

8. Ford produced its European sales information in the form of an Excel spreadsheet. In addition, Ford supplied “screenshots” of invoice documents which allowed the quantification of both Vehicle and UIM sales information.

9. Ford has not provided any updates of the NA Invoice Data since the initial production in September 28, 2020.<sup>3</sup> Ford has also not provided any updates to the “screenshots” of invoice information which allowed the quantification of European UIM sales information.

10. Although it is my understanding that Ford had agreed to exchange updated U.S. sales information by September 1, 2023 and European sales updates on September 1, 2023 or in “a little more time,”<sup>4</sup> Ford did not produce updated U.S. sales information until September 13, 2023 and updated European sales information until September 22, 2023.<sup>5</sup>

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<sup>3</sup> In addition to my use of the NA Invoice Data in forming my opinions in my previous reports, Ford’s economic damage expert also relied upon the NA Invoice Data (for example, refer to Appendix A, Schedule 2.1 in the Rinke Rebuttal Report (June 14, 2021)).

<sup>4</sup> August 17, 2023 email from John S. LeRoy (Brooks & Kushman) to Andrew M. Grove (Howard & Howard).

<sup>5</sup> Ford’s Seventh Supplemental Answer to InterMotive’s Interrogatories 10 through 13 related to these updates was never verified.

11. In addition, Ford did not provide an updated, verified Supplemental Answer to InterMotive's Interrogatories 10 through 13 regarding these sales until October 15, 2023 (Ford's Eighth Supplemental Answer to InterMotive's Interrogatories 10 through 13) which was only three days before the start of trial and thereby impacted my preparation of a supplemental report.

12. Through Ford's Eighth Supplemental Answer to InterMotive's Interrogatories 10 through 13 on October 15, 2023, Ford has only produced the following updated sales information:<sup>6</sup>

- a. North American sales: NAVIS information, which does not contain any information regarding UIM sales revenue;
- b. European Sales: Vehicle sales data but without any invoice documents which would allow the quantification of UIM sales information. In addition, Ford's latest production of European sales revenue does not contain "NRP USD Revenue" (as previously identified by Ford as the appropriate revenue to consider) but instead has "A10 Revenue." Ford has not provided a Currency or definition for A10 Revenue. Based upon my analysis, Ford's A10 Revenue varies from approximately 20% less than

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<sup>6</sup> For the Fusion Police City HEV (CD391), the UIM was part of the vehicles standard configuration and therefore there is not any separate revenue information for the UIM as an Option. Ford did provide NA Invoice Data for the Fusion Police City HEV (CD391).

NRP USD Revenue to 10% over NRP USD Revenue, with the majority less than NRP USD Revenue.<sup>7</sup>

13. In my previous reports, I utilized Ford's Invoice Data in my calculations instead of Ford's NAVIS data for three reasons:

- a. Although Ford provided sworn verifications of the sales information that was contained in Ford's Answers to InterMotive's Interrogatories, Ford's Interrogatory Answers frequently differed from the NAVIS system data for the identical time periods addressed by Ford's Answers to InterMotive's Interrogatories.<sup>8</sup>
- b. Ford's NAVIS system data typically understates the information contained in Ford's NA Invoice Data. Based upon my analysis, Ford's NAVIS data understated vehicle sales by 880 vehicles and \$18,954,313.25 through 2020.<sup>9</sup> Assuming the same relationship between Ford's NA Invoice Data and Ford's NAVIS data existed

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<sup>7</sup> Refer to Exhibit A to this Declaration (Schedule C-6 of the Pretrial Update Expert Report of Mark A. Robinson, Oct. 29, 2023).

<sup>8</sup> For example, refer to the Notes on page 5 of 5 of Exhibit B to this Declaration (Schedule C-4 of the Pretrial Update Expert Report of Mark A. Robinson, Oct. 29, 2023) describing the inconsistencies between Ford's verified Answers to InterMotive's Interrogatory 10 and the information produced from Ford's NAVIS system.

<sup>9</sup> I have prepared a comparison of Ford's NAVIS data to Ford's Invoice Data in regards to Ford's sales of vehicles that included a UIM device within the United States. Refer to Exhibit C to this Declaration (Schedule C-5 of the Pretrial Update Expert Report of Mark A. Robinson, Oct. 29, 2023).

in the time period of 2021 through 2023, I expect that Ford's total understatement of sales would be much higher now. Given Ford's NA Invoice Data is obtained from a system that aggregates the multiple invoices that Ford has with a dealer regarding the sale of each vehicle, I view the information from Ford's NA Invoice Data to be more reliable given the third-party dealerships association with the information contained in the invoice system.

- c. Ford's NAVIS system data does not include any information regarding Ford's sale of the UIM device.

14. Given Ford did not provide did not provide any updates of the sources of financial information regarding UIM module sales and vehicle sales that I previously had relied upon, I had to utilize the sales information from Ford's NAVIS system in order to update my calculations. In doing these updates, I utilized the same methodologies that I had used in my previous reports. However, due to the fact that Ford's NAVIS system data lacks the detailed invoice information that was previously relied upon (including Ford's economic damage expert), it was necessary to utilize substantially more assumptions than were previously necessary.

15. For the reasons described above, Ford's failure to provide the updated invoice data substantially impacted my ability to produce an accurate updated report on sales and profits.

16. I declare under penalty of perjury the foregoing is true based on my personal knowledge, information and belief.

Dated: November 26, 2023

A handwritten signature in black ink, appearing to read 'Mark A. Robinson', with a stylized, flowing script.

Mark A. Robinson



# **EXHIBIT A-C**

**Filed Under Seal**